

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RODNEY MOORE,

Plaintiff,

v.

DAWN LANDERS, DR. BREEN,
MR. MORRIS, JANEL NICKEL,
LT. LANE and SGT. DYKSTRA,

Defendants.

ORDER

09-cv-448-vis¹

Plaintiff Rodney Moore, a prisoner at the Columbia Correctional Institution in Portage, Wisconsin, is proceeding on his claim that defendants Dr. Breen, Dawn Landers, Mr. Morris, Janel Nickel, Lt. Lane and Sgt. Dykstra are failing to protect him from other inmates. In a January 12, 2010 order, I concluded that plaintiff's materials in support of his motion for preliminary injunctive relief did not comply with this court's procedures, and I gave him another chance to file a brief, proposed findings of fact and supporting evidence. Also, I responded to plaintiff's three proposed amended complaints, explaining that many of his proposed new claims did not qualify for the imminent danger exception of 28 U.S.C. § 1915(g) or were otherwise inappropriate to be included in this case. I gave plaintiff another opportunity

¹ I am assuming jurisdiction over the case for the purpose of this order.

to file an amended complaint including his claim that prison staff tampered with his medication.

Since that order was issued, plaintiff has filed numerous submissions. In particular, he has filed a new proposed amended complaint and new materials in support of his motion for preliminary injunctive relief. However, after filing these documents, plaintiff filed a motion to voluntarily withdraw the case. Subsequently, he filed a confusing motion in which he asked the court to “withdraw, the withdraw,” in which plaintiff states he has filed a writ of mandamus in Wisconsin state court, but he does not say whether he actually wishes to proceed with the present case in this court. Accordingly, I will give plaintiff a chance to make his intentions clear.

Plaintiff has until March 11, 2010 to inform the court whether he wishes to continue prosecuting this case. If he wants to continue, I will then address his proposed amended complaint and preliminary injunction materials. If he wants to voluntarily dismiss the case, he should be aware that the dismissal will be with prejudice because defendants have had to defend this case. Fed. R. Civ. P. 41(a)(2). If plaintiff does not respond by March 11, 2010, I will assume that he wishes to continue with this litigation. Defendants should wait to respond to plaintiff’s preliminary injunction materials until the court has set a briefing schedule.

ORDER

IT IS ORDERED that plaintiff Rodney Moore has until March 11, 2010 to inform the court whether he wishes to continue prosecuting this case.

Entered this 3rd day of March, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge